

GUIDELINES FOR IMPLEMENTATION OF THE NATURAL GAS POLICY ACT (NGPA) OF 1978

(These guidelines reflect the information contained in the reinstatement of the Natural Gas Policy Act of 1978 issued by the Federal Energy Regulatory Commission (FERC) on July 14, 2000, Final Rule Order No. 616, with an effective date of September 25, 2000).

1. Who shall file. An operator of an onshore lease, either on Federal lands or on Indian-allotted or tribal lands, except for the Osage Reservation, Osage County, Oklahoma, shall make application for a natural gas category determination to the appropriate Bureau of Land Management (BLM) Regional Processing Center for onshore Federal and Indian lands as provided under the NGPA and the Federal Energy Regulatory Commission (FERC) regulations at Title 18 CFR Part 270. (Hereafter, the term “Authorized Officer” will refer to the appropriate employee of the BLM who has been delegated the authority to approve NGPA applications for onshore Federal and Indian lands). The operator shall make application for any colessees, except that a colessee may make application if the operator refuses to take such action upon written request. Each application submitted shall be as set forth in the applicable regulations, 18 CFR Part 270, as amended, and shall reflect one category preference. More than one application per well completion may be submitted if the category preference is clearly marked and support data is furnished for each completion.

2. Where to file. The application shall be filed with the appropriate Authorized Officer as indicated by the addressees listed in 18 CFR 270.401 (part 270.401 will be revised by the FERC to reflect current addresses). For those Federal or Indian leases involved with State or other leases through a unit or communitization agreement or by a State boundary-line condition, the appropriate Authorized Officer shall make the determination if the completion location of a well is on a Federal, Indian, or onshore Federal lease; For those cases where the completion location of a well is on a divided-interest lease i.e., divided royalties involving the Federal or Indian and State or private ownerships), the Authorized Officer shall make the determination if the majority interest is Federal and/or Indian. Where a 50-50 split-interest lease occurs, the State shall make the determination.

The three BLM NGPA Processing Centers and areas of responsibility are as follows:

MONTANA: BLM, Montana State Office, 5001 Southgate Drive, P. O. Box 36800, Billings, MT 59101-6800, for Montana, North Dakota and South Dakota. Contact is Trish Cook, (406) 896-5110.

NEW MEXICO: BLM, NGPA Processing Center/NM-930, 435 Montano Road NE, Albuquerque, NM 87107-4935, for Alaska, Arizona, California, Colorado, Oregon, Utah, Eastern States (East of Mississippi and others), Kansas, Oklahoma, New Mexico and Texas. Contacts are Allen F. Buckingham, (505) 761-8765 and Arlene Salazar, (505) 761-8772.

WYOMING: BLM, Wyoming Reservoir Management Group, 2987 Prospector Drive, Casper, WY 82604, for Wyoming and Nebraska. Contact is Asghar Shariff, (307) 261-7701.

3. Form, signature, and affidavit. The applicant shall make application using revised Form FERC 121, as the base instrument. The well's American Petroleum Institute (API) number shall be entered as well as other information, and the signature on the application shall be in compliance with 18 CFR 270.301(a).

Further, to assure that the oath requirements of 18 CFR 270.302, 303, 304, and 306 are fulfilled, the applicant shall submit a notarized affidavit with each application. The affidavit shall be responsive to and shall follow the guidelines of the applicable FERC regulation. It shall be signed by the appropriate company official or person.

The Form FERC 121 must be submitted in two (2) copies. If the applicant desires a copy of the FERC 121 returned with a stamped receipt date and docket number assigned, a third copy of the form should be submitted.

4. Support data. With each application, the applicant shall submit a total of two copies of all support-type information. Also, for any data submitted to amend an application, two copies shall be required.

The applicant shall include support data beyond the minimum requirements of FERC regulations. Also, the applicant shall supply additional information if so requested by the Authorized Officer in making the category determination. The minimum data required for each category determination shall be in accordance with the data required on Form FERC 121.

All copies of record relied on by the applicant shall be certified, except for the conventional BLM agreements and forms already certified. The statement submitted shall certify as to the authenticity of the document and to the limitations of the data. The statement shall be signed by a responsible company official or representative. It may be a part of the affidavit, or it may be similar to the samples attached.

5. Support data considered to be proprietary. In accordance with the provisions of 18 CFR 270.506, as amended, all information submitted in support of the application shall be marked appropriately if believed to be proprietary and, therefore, confidential in nature. Such information may be considered as confidential if it falls within one of the exemptions described in paragraphs (1) through (9) of 5 U.S.C. 552(b). The regulatory authority as to confidentiality under the NGPA is pursuant to 18 CFR 270.506.

6. Final determinations. Upon review and examination of the application and all written comments and conferences, the Authorized Officer shall make a final determination and shall forward the determination to FERC within 15 days of making the determination. The final determination must be designed to be in compliance with 18 CFR 270.204, as amended. The determination shall be entered in the log, and a copy shall be filed with the application.

In the event of a negative final determination, the Authorized Officer shall forward to FERC a notice of the determination together with revised Form FERC 121. A copy of such a negative final determination shall also be forwarded to the applicant by certified mail. If the applicant or any aggrieved party so requests within 15 days following the determination, the Authorized Officer shall forward to FERC all the information specified under 18 CFR 270.204. Any relief sought by an applicant or other interested party from an Authorized Officer's final decision should be in the form of a protest to FERC as provided in 18 CFR 270.501.

7. Incomplete applications. In the event the application is found to be incomplete upon filing, the Authorized Officer shall notify the operator by a certified letter or electronic mail notice of the deficiencies within 15 days of the initial processing of the application. If deficiencies are not corrected by the applicant within 60 days of the receipt of the electronic mail notice or certified letter of incomplete application, the application shall be returned to the applicant without prejudice or action.

8. Public notification. The public shall be notified through the Federal Register of any changes of substance in these procedural guidelines and/or by electronic mail notice.

9. Tight-formation well determination. Applications for a tight-formation well determination cannot be approved without first determining that the formation is tight in accordance with 18 CFR 270.305. The applicant should follow the instructions below for applying for a tight-formation area designation. Two copies of the data are required. Approval by the BLM is subject to review by the FERC.

Applicants who had "windows" or "certain portions" excluded from a previously designated tight formation area during the years from 1980 to 1992 due to requirements of the former NGPA program may desire to submit applications to designate those previously excluded areas as "tight" under the new guidelines contained in 18 CFR 270.305.

The application should encompass all lands within the geographic boundaries of the formation, or portion of the formation, but with the understanding that the Authorized Officer's ruling can only apply to Federal, Indian, or Federal offshore lands. Where appropriate, applications may be limited to formation segments which are definitively separated through faults or other barriers from adjoining segments.

Whatever the case, support data from all lands included in the application should be furnished to the Authorized Officer and to the State, when both Agencies are involved, in order to provide information without land gaps for the formation being examined. This will permit completed applications to be submitted simultaneously to the appropriate Agencies when State or private lands are intermixed with Federal, Indian, or Federal onshore lands.

The State agency representative and the Authorized Officer may agree to a common hearing or conference when their respective agencies have jurisdiction over portions of a given formation. However, when the given formation(s) is exclusively within the Federal, Indian, or Federal onshore lands, the Authorized Officer will determine the application procedure. Applicants must have a complete application including all supporting data on file with the jurisdictional agency at least 20 calendar days prior to a common hearing or scheduled conference. Any material of significance which has not been previously filed will not be considered at the hearing or conference.

Requirements for a Tight-Formation Designation

The operator/applicant must:

1. Submit a transmittal letter formally requesting that a given formation or portion of a formation be designated as tight.
2. Submit a plat of the area or field, or a location base map showing the geographic boundaries of the formation and all wells penetrating the formation. The plat or map must also show the general area surrounding the subject formation marked by a boundary that encompasses the existing wells and the geology that are instrumental in defining the limits of the formation.
3. Submit a structural contour map and structural cross section of the formation of interest. The structural contour map should clearly locate wells which have produced or are currently producing from the recommended formation. The structure cross section must be constructed using a sufficient number of correlatable electric logs of wells in the area to clearly demonstrate: (a) the structure of the area; (b) the vertical limits of the recommended formation; and (c) the lithologic variation across the area.

4. Provide a list showing all wells with the date completed in the formation of interest and the cumulative production of natural gas of each well from the formation. The list should also indicate the well locations and depth at which the top of the formation was encountered and the elevation from which the depth was measured. Such a listing may be omitted if the required data is entered legibly on the structure cross section map required under number 2 above.
5. Provide a written geographical and geological descriptions of the formation, including specific details of the formation's location and development, rock texture, homogeneity, porosity, permeability, water and gas saturations, thickness, dip, areal limits, and faults or other barriers.
6. Submit geological and engineering data, including core analyses, electric logs, well log interpretation, transient pressure information, natural well flow tests (before any treatment), drill stem tests, and any other tests or analyses used in determining the permeability of the formation.
7. Discuss the proposed procedures and the other data utilized for the determination that development of the formation will not adversely affect freshwater aquifers that may be used as domestic and agricultural water supply. Cite the existing applicable State and/or Federal regulations which have been complied with in this regard.
8. Submit an estimate of the average in situ gas permeability throughout the pay section of the formation using net pay with basic data, calculations, methodology, and reasoning. If sufficient data is lacking, indicate the basis and/or technique and reasoning for expecting the permeability not to exceed 0.1 millidarcy.
9. Provide the estimated pre-stimulation stabilized flow rates for individual wells and a calculation of the "arithmetic" mean of these rates.

In conformance with Office of Management and Budget guidelines, data of a specific nature such as a Bureau of Land Management directional drilling survey, etc., which has already been submitted to the Authorized Officer for another purpose, shall so indicate below that the data is on file with the Authorized Officer. The following are the general requirements for well filings with a BLM NGPA Processing Center:

1. Revised Form FERC 121, "Application for Determination." (OMB No. 1902-0038)
2. A statement under oath as required by 18 CFR 270.302, 303, 304, and 306.
3. For a well producing from coal seams: File application in accordance with 18 CFR 270.302. The evidence required to establish that gas is produced from coal seams should include:

- a. For cased hole and single completion wells, chromatograph and/or gas analysis results.
- b. For open hole and multiple completion wells, gas analysis and chromatograph results. Instead of chromatograph results, a coal desorption analysis or production log, or drill stem test of the coal zone may be provided.

4. For a well producing from Devonian shale: File application in accordance with 18 CFR 270.203.

5. For a well producing tight-formation gas from a designated tight formation: File application in accordance with 18 CFR 270.304. The following revision and clarification was made by the FERC on January 24, 2001, regarding the submission of well logs:

- a. The FERC will accept tight gas well category determinations that do not have a complete well log as long as each determination has the log heading and a log section for the subject well that covers enough logged footage above and below the producing completion so that the log section in the determination can be correlated with similarly filed log sections in other wells. The FERC will not require the tight gas well category determinations to include a copy of the type log or cross-section that was filed in the corresponding tight formation designation proceeding. Instead, the FERC will rely, in part, on the jurisdictional agency's comparison of the well completion and well log information in each individual well determination application to its own tight formation designation files and, in part, on their own review of the individual well determinations FERC receives. On an as needed basis, the FERC will conduct field audits at the offices of the jurisdictional agencies in order to verify that the selected sample of tight gas well completions fall within the applicable designated tight gas interval for the formations previously designated as tight formations.

- b. Applicants are reminded to submit an "appropriate length" of well log section that clearly indicates logged footage above and below the producing completion as required by the FERC in the paragraph above.

6. Applicants are encouraged to include an electronic mail address with their well applications.